

REMARKS

1
2 The Applicant respectfully requests reconsideration and allowance of claims 1, 3-20, and
3 22 in view of the above amendments and the arguments set forth below.

4 The Applicant appreciates the indication in the Final Office Action that claims 21, 24,
5 and 25 are allowed.

6

7 I. TELEPHONE INTERVIEW

8 A telephone interview was conducted between Examiner Corbin and Applicant's attorney
9 Russell Culbertson on July 19, 2004. In the interview the Examiner suggested the above
10 amendments to claims 1 and 3 to overcome the section 112 rejections. The Applicant's attorney
11 also raised the point with regard to the prior art rejections that neither of the cited references
12 teach or suggest increasing the moisture content of the meat product and then distributing the
13 moisture, including the added moisture, throughout the meat product. The Examiner expressed
14 the position that the Nakayama reference disclosed spraying ammonium hydroxide solution on a
15 ground meat product and that there would inevitably be some mixing to distribute that added
16 moisture. The Applicant's attorney understands that agreement was reached as to the
17 amendments to claims 1 and 3 to obviate the section 112 rejections. However, no agreement was
18 reached as to the prior art based rejections.

19

20 II. THE SECTION 112 REJECTIONS

21 Claims 1 and 3 were rejected under 35 U.S.C. §112, second paragraph, in view of the
22 reference to "the added moisture" in each of those claims. The above amendments delete the

1 word "added." It is believed that the amendments to claims 1 and 3 above clearly overcome the
2 section 112 rejections.

3

4 **II. THE CLAIMS ARE NOT OBVIOUS OVER THE 795 PATENT IN VIEW OF**
5 **NAKAYAMA**

6 Claims 1-13, and 22 were rejected under 35 U.S.C. §103(a) as being obvious over U.S.
7 Patent No. 5,871,795 to Roth (the "795 patent"), in view of the Japanese publication by
8 Nakayama, et al. (the "Nakayama reference" or "Nakayama"). The Applicant traverses these
9 rejections on the ground that the proposed combination does not teach or suggest all of the
10 elements required in the rejected claims. Furthermore, there is no suggestion in the prior art to
11 combine the gas application process disclosed in the 795 patent and the ammonium hydroxide
12 solution washing process disclosed in the Nakayama reference.

13

14 The Cited References Do Not Suggest Each Required Element In The Claims

15 Independent claims 1, 12, and 22 each requires increasing the moisture content of a
16 comminuted meat product, distributing the moisture content throughout the meat product, and
17 creating an ammonium hydroxide solution distributed throughout the meat product. Claim 13
18 requires adding an ammonium hydroxide solution to a comminuted meat product and distributing
19 ammonium hydroxide solution throughout the meat product. The Applicant submits that the
20 proposed combination of the 795 patent and Nakayama reference does not teach or suggest
21 adding moisture content to a meat product, distributing the moisture content throughout the meat
22 product, and distributing an ammonium hydroxide solution throughout the meat product as
23 required by claims 1, 12, and 22. The Applicant also submits that the proposed combination of
24 references does not teach adding an ammonium hydroxide solution to a comminuted meat

1 product and distributing the ammonium hydroxide solution throughout the meat product as
2 required by claim 13.

3 The 795 patent was cited for its disclosure that ammonia gas may be added to
4 comminuted meat. However, the 795 patent does not teach or suggest adding moisture to the
5 comminuted meat along with the ammonia gas. The rejections rely on the Nakayama reference
6 for a suggestion of adding moisture to the meat product. However, the Nakayama reference does
7 not teach or suggest distributing added moisture or added ammonium hydroxide solution
8 throughout the meat product.

9 In the Final Office Action the Examiner contends that distributing ammonium hydroxide
10 solution throughout the meat product does in fact happen in the system disclosed in the 795
11 patent. However, the present claims do not merely require distributing ammonium hydroxide
12 solution throughout the meat product. The claims either require adding an ammonium hydroxide
13 solution and distributing that solution throughout the meat product (claim 13) or adding water to
14 the meat product, distributing water throughout the meat product, and distributing ammonium
15 hydroxide solution throughout the meat product (claims 1, 12, and 22).

16 In the telephone interview, the Examiner stated the position that the Nakayama reference
17 disclosed spraying ammonium hydroxide solution on a ground meat product and that the
18 resulting added ammonium hydroxide solution would be inevitably mixed throughout the ground
19 meat product. The Applicant submits that there is no technical basis for the proposition that
20 merely spraying ammonium hydroxide solution on a ground meat product inevitably results in
21 any mixing of ammonium hydroxide solution in the ground meat product. Furthermore, even if it
22 could be shown that some of the sprayed-on solution might seep into the interior of the ground
23 meat product, there is certainly no basis for the proposition that the added ammonium hydroxide
24 solution would inevitably be distributed throughout the meat product as required by the present

1 claims. Thus, the Applicant submits that the Examiner's reliance on the Nakayama reference for
2 the proposition of distributing added moisture or added ammonium hydroxide solution
3 throughout a comminuted meat product is in error.

4 Because the cited references do not teach or suggest adding water to a comminuted meat
5 product and distributing the water so that an ammonium hydroxide solution is distributed
6 throughout the meat product and also do not teach or suggest adding an ammonium hydroxide
7 solution to a meat product and distributing that added solution throughout the meat product, the
8 Applicant submits that the cited references do not teach or suggest each element required in
9 claims 1, 12, 13, and 22. Thus, the Applicant submits that claims 1, 12, 13, and 22 are entitled to
10 allowance together with their respective dependent claims.

11
12 There Is No Suggestion In The Prior Art To Make The Proposed Combination Of References
13 In order to combine the teachings of different prior art references to make an obviousness
14 rejection under 35 U.S.C. §103, there must be some teaching, motivation, or suggestion
15 somewhere in the prior art to make the proposed combination. However, there is no such
16 teaching, motivation, or suggestion in the prior art to combine the 795 patent and Nakayama
17 reference as proposed by the Examiner.

18 It is first noted that the 795 patent specifically teaches applying ammonia gas or a pH
19 increasing material in a carrier gas to a comminuted meat product under certain conditions to
20 increase the pH of the meat product in a short application period. The purpose of the pH
21 increasing treatment in the 795 patent was to inhibit microbe activity in the meat product. As
22 discussed beginning at the bottom of Col. 4 through Col. 5 of the 795 patent, the short gas
23 pressure application period was used to overcome adverse effects associated with extended

1 exposure to the ammonia. Furthermore, the 795 patent discloses using a gas in the treatment to
2 apply a pressure effect in addition to the pH increase.

3 On the other hand, the Nakayama reference discloses applying ammonia gas and/or
4 ammonium hydroxide solution to eliminate undesirable odors from raw fowl meat. The
5 ammonia gas and/or ammonium hydroxide solution is applied only to the surface of the fowl
6 meat being treated. In particular, the latter half of page 3 of the English translation indicates that
7 ammonia gas may be applied by placing the meat in an ammonia gas atmosphere, and further
8 indicates that ammonium hydroxide solution may be sprayed onto the fowl meat or the fowl meat
9 may be immersed in the solution. Nothing in the Nakayama reference teaches or suggests that an
10 ammonium hydroxide solution is mixed with a comminuted meat product so that the solution is
11 distributed throughout the meat product. In fact, such a distribution throughout the meat product
12 would appear to be inconsistent with the purpose of the treatment in Nakayama to eliminate
13 odors which emanate from the surface of the meat product.

14 In order for the 795 patent and Nakayama reference to be combined so as to include each
15 element required in Applicant's claims 1, 12, 13, and 22, it would be necessary to spray an
16 ammonium hydroxide solution on the surface of a comminuted meat product as disclosed in
17 Nakayama, and then run the comminuted meat product through the mixing arrangement
18 disclosed in the 795 patent. However, the 795 patent discloses applying ammonia gas or a pH
19 increasing material in a carrier gas to the comminuted meat product for only a short duration and
20 certain conditions to limit overexposure to ammonia. Thus, one would have to ignore the
21 teachings of the 795 patent regarding ammonia overexposure in order to make a combination in
22 which ammonium hydroxide solution is applied to a meat product first and then the meat product
23 is mixed. There is no suggestion anywhere in the record that one of ordinary skill in the art

1 acting at the time of this invention would have ignored the teachings of the 795 patent to make
2 the Examiner's proposed combination.

3 Because there is no teaching or suggestion in the prior art to make the proposed
4 combination of the 795 patent and the Nakayama reference, the Applicant submits that the
5 proposed combination is improper under 35 U.S.C. §103, and that the rejected claims are
6 therefore entitled to allowance.

7

8 III. CLAIMS 14-20 ARE ALLOWABLE OVER THE 795 PATENT

9 Claims 14-20 were rejected as either being anticipated by or obvious in view of the 795
10 patent. The Applicant believes the claims are not anticipated by nor obvious in view of the 795
11 patent because the 795 patent does not teach or suggest a moisture enhanced meat product as
12 required in claim 14 and its dependent claims, claims 15-20.

13 As discussed above, the 795 patent teaches applying ammonia gas or a pH increasing
14 material in a carrier gas for a short duration. The 795 patent does not suggest producing a
15 moisture enhanced meat product having an ammonium hydroxide solution distributed throughout
16 the product. The 795 patent certainly does not teach or suggest setting the treated product by
17 adding heat and/or pressure to the product. Since claim 14 requires a meat product produced by
18 adding moisture to a comminuted meat product and producing an ammonium hydroxide solution
19 throughout the comminuted meat product, and further requires that the meat product be produced
20 by setting the moisture enhanced meat product with the application of heat and/or pressure, the
21 795 patent cannot anticipate claim 14 or make the claim obvious.

22 For these reasons the Applicant submits that claim 14 is not anticipated by, or obvious in
23 view of, the 795 patent, and is entitled to allowance together with its dependent claims, claims 15
24 through 20.

IV. CONCLUSION

2 For all of the above reasons, the Applicant respectfully requests reconsideration of claims
3 1, 3-20, and 22, and allowance of these claims together with previously allowed claims 21, 24,
4 and 25. If the Examiner should feel that any issue remains as to the allowability of these claims,
5 or that a conference might expedite allowance of the claims, he is asked to telephone the
6 Applicant's attorney Russell D. Culbertson at the number listed below.

7

Respectfully submitted,

The Culbertson Group, P.C.

CERTIFICATE OF FACSIMILE

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office. (Fax No. 703-872-9306) on July 23, 2004.

Reg. No. 32,124, Russell D. Culbertson.